

09/756,888
Page 10
April 22, 2005

REMARKS

Claims 21-23, 25, 26, 28, 29, 31, 40-52, and 63-71 stand rejected under 35 U.S.C. §102(b) as being clearly anticipated by Lovell. Claims 53-62 and 72 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lovell in view of Hulsebus et al. Claim 38 stands rejected under 35 U.S.C. §103(a) as being clearly anticipated by Foreman. Claims 24, 27, 30 and 39 stand objected to as being dependent upon a rejected base claim. The Examiner's careful review and descriptive correspondence in the present office action is most appreciated, and has facilitated the amendments herein above and discussion herein below. In view of the above amendment and following remarks, the Examiner is respectfully requested to reconsider the outstanding objections and rejections, and institute an interference proceeding with the Foreman patent regarding the claims that were copied from Foreman and that have been objected to in the outstanding action.

With regard to the objections to claims 24, 27, 30 and 39, these claims have been amended herein to independent form. The features of claims 22 and 24 have been incorporated directly into claim 21, and claims 22 and 24 have therefore been canceled. The features of claim 27 have been incorporated into claim 26, and claim 27 has therefore been canceled. The dependency of claim 39, which formerly depended from claim 27, has been updated to now depend from claim 26. Newly added independent claim 73 incorporates the features of claims 30, 28 and 26 into a single independent claim. Consequently, claims 24, 27, 30 and 39 have now been rewritten, and the Examiner is respectfully requested to institute an interference between the Foreman patent from where these claims were copied and the present patent application.

With regard to the rejection of Claim 38 over Foreman, applicant's representative observes that the Foreman patent referenced by the Examiner is in fact the patent that issued from the allowed published application which applicant has copied claims 21-31 from. The applicant has provided substantial evidence that the applicant invented the present invention prior to the filing by Foreman of the provisional patent application to which Foreman claims priority. In fact, Foreman obtained the concept from the applicant. Consequently, the Examiner is once again respectfully requested to institute an interference between the Foreman patent and the present application, or to otherwise provide some basis for why the affidavits and arguments of record are

09/756,688
Page 11
April 22, 2005

not being considered as persuasive with regard to this claim.

With regard to claims 40-52, presently rejected under 35 U.S.C. §102(b) as being clearly anticipated by Lovell, applicant's representative observes that these are claims which were derived directly from the Foreman published application, but which have been rewritten using the words from applicant's own specification. The support for the rewriting is irrefutably found in the similarity between applicant's drawings and those of Foreman, and further established through affidavits from the inventor and others in the field that these words are, in fact, interchangeable in the field. Consequently, applicant's representative respectfully requests that the Examiner reconsider the rejection of these claims, and indicate those claims which directly correspond to the objected-to claims as also being patentable. Claim 43 directly corresponds to objected-to claim 24, claim 47 directly corresponds to objected-to claim 27, and claim 50 directly corresponds to objected-to claim 30. Otherwise, the Examiner is respectfully requested to separately identify the basis for the differential treatment between these claims and those which are presently objected to.

With regard to claims 53-72, which stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lovell in view of Hulsebus et al, these claims have been canceled herein, in anticipation of the institution of an interference with the Foreman patent. The applicant retains the right to pursue these additional claims at any time in the future as may be required or appropriate at such time, as permitted under the statutes and rules.

Should there remain any open issues in this application which might be resolved by telephone, the Examiner is respectfully requested to call the undersigned at 320-363-7296 to further discuss the advancement of this application. Please charge all fees associated with this correspondence to deposit account 17-0155.

Sincerely,



Albert W. Watkins

reg. 31,676